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23389 7590 03/16/2010 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			EXAMINER CLARK, DAVID J	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/687,896
Filing Date: October 17, 2003
Appellant(s): JHINGAN, NITIN

John S. Sensny
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 25 November 2009 appealing from the Office action mailed 7 May 2009.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The Appellant's statement of the status of amendments after final rejection contained in the brief is incorrect. The appellants claim to have filed an amendment under 37 CFR 1.116 to correct an informality noted in Claim 29. The Appellants further claim they have not been advised whether this Amendment has been entered. The Examiner does not recognize that the amendment has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

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(8) Evidence Relied Upon

2002/0099796 A1	Chou	7-2002
2002/0046051 A1	Katzman et al.	4-2002
7184973 B2	Monteleone et al.	2-2007

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 1-6, 19-22, and 24-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chou (US PGP 2002/0099796 A1) in view of Katzman et al. (US PGP 20020046051 A1).

Claim 1:

Chou, as shown, discloses the following limitations:

A method of creating and providing information about a requisition order, comprising the steps:

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- *providing an automated agent for receiving and identifying a set of inquiries about the requisition order, and for each identified inquiry, preparing an associated response (see at least figure 1, "110" and "118"; Figure 3, "322"; paragraphs 0008, 0025-0026, "web server software"; 0033-0034);*
- *a user transmitting to the agent one of said set of inquiries(see at least paragraph 0009, 0011, 0024, and 0045-0046);*
- *the agent identifying the transmitted inquiry and preparing the associated response (see at least paragraph 0025, 0045-0046);*
- *using the system to send said associated response from the agent to the user (see at least paragraph 0045);*

Chou does not disclose the following limitations, but Katzman et al. however, as shown, does:

- *the user initiating an instant messaging session with the agent via the instant messaging system (see at least paragraph 0026, 0028, 0039, 0099, where Katzman teaches an electronic concession stand application that provides users with the ability to order items via a network, {paragraph 0026 and 0028}. Katzman further teaches a user requests an order of goods by sending an instant message to a number of suppliers {paragraph 0099 and 0039}.);*
- *the user and the agent creating the requisition order during said instant messaging session by interactively communicating with each other during said instant messaging session via the instant messaging system to create the requisition order (see at least paragraph 0028, "Orders created by a user place a direct demand order on the supplier, utilizing the MCS programmable API (XML, standards based API) which the interfaces directly to the suppliers order processing and fulfillment systems..." and paragraphs 0033 and 0039, "any one or more of the following may be included in a embodiment of the CS Order Wizard: Instant messaging, chat, and other direct communication tools."),*
- *wherein the agent helps the user create orders through a chat window (see at least paragraph 0028, "the CS Order Wizard may provide order request and processing*

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capabilities...Orders created by a user place a direct demand order on the supplier, utilizing the MCS programmable API (XML, standards based API) which the interfaces directly to the suppliers order processing and fulfillment systems... via email, chat.”)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Chou with the technique of Katzman et al. for the advantage of providing real-time interaction between the provider and the customer, therefore improving the efficiency of processing an order.

Claims 2 and 3:

Chou in view of Katzman et al. discloses the limitations of claim 1 as shown above. Moreover, Chou, as shown, discloses the following limitations:

(Claim 2) A method according to Claim 1, for use with a given requisition system, and further comprising the steps of:

- *the user submitting the requisition order to the requisition system (see at least paragraphs 0046-0049); and*
- *providing the agent with access to the requisition system to transmit information to and to receive information from the requisition system (see at least figure 1 and paragraph 0025).*

(Claim 3) A method according to Claim 2, further comprising the step of the agent, in response to identifying the transmitted inquiry, accessing the requisition system to obtain an answer to the transmitted inquiry (see at least paragraphs 0025, 0044-0048).

Claims 4 and 5:

Chou in view of Katzman et al. discloses the limitations of claim 1 as shown above. Chou, as shown, discloses the following limitations:

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(Claim 4) *wherein the step of the user transmitting to the agent one of said set of inquiries includes the step of the user to transmit to the agent said one of the set of inquiries (see at least paragraphs 0009, 0011, 0024, and 0045).*

(Claim 5) *wherein:*

- *the step of the user initiating a session with the agent includes the step of the user transmitting to the agent a request to initiate preparation of the requisition order (see at least paragraph 0046);*
- *the step of the agent preparing the associated response includes the step of the agent preparing a set of prompts to obtain information from the user about the requisition order (see at least paragraph 0046 - The agent provides an item search page having text entry fields for one or more searchable parameters.); and*
- *the step of using the system includes the step of to send the set of prompts to the user (see at least paragraph 0046).*

Chou does not disclose the following limitations, but Katzman et al. however, as shown, does:

- *using the instant messaging system (see at least paragraph 0099)*

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Chou with the technique of Katzman et al. for the advantage of providing real-time interaction between the provider and the customer, therefore improving the efficiency of processing an order.

Claim 6:

Chou in view of Katzman et al. discloses the limitations of claim 5 as shown above. Moreover, Chou, as shown, discloses the following limitations:

further comprising the steps of:

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- *the user, in response to receiving the set of prompts, providing said information to the agent (see at least paragraph 0046); and*
- *the agent using said provided information to complete the requisition order, and sending the completed requisition order to a given requisition system (see at least paragraphs 0046-0049 and 0052).*

Claim 24:

Chou in view of Katzman et al. discloses the limitations of claim 1 as shown above. Chou, as shown, discloses the following limitations:

- *wherein both the user (see at least paragraph 0038, “the user is logged into the system as a requester”) and the agent must currently logged on (see at least paragraph 0042, “The site manager is preferably logged in initially as an individual user”)*

Chou does not disclose the following limitations, but Katzman et al. however, as shown, does:

- *to the instant messaging system in order for a message to be sent from the user to the agent (see at least paragraph 0039, “Instant messaging, chat, and other direct communication tools.”).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Chou with the technique of Katzman et al. for the advantage of providing real-time interaction between the provider and the customer, therefore improving the efficiency of processing an order.

Claim 19:

Chou, as shown, discloses the following limitations:

A method of creating and providing information about a requisition order, comprising the steps:

- *providing an automated agent for receiving and identifying a set of inquiries about the requisition order, and for each identified inquiry, preparing an associated response (see at*

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least figure 1, "110" and "118"; Figure 3, "322"; paragraphs 0008, 0025-0026, "web server software"; 0033-0034);

- *using an application program interface for connecting the agent with an instant messaging system* (see at least paragraphs 0013 and 0033);
- *a user transmitting one of said set of inquiries utilizing the system* (see at least paragraph 0009, 0011, 0024, and 0045-0046);
- *the agent receiving said one of the inquiries utilizing said application program interface* (see at least figure 3 and paragraphs 0013, 0025, 0033-0035, and 0045);
- *the agent identifying said one of the inquiries and preparing the associated response* (see at least paragraphs 0025 and 0045);
- *using the application program interface to send said associated response from the agent to the user via the system* (see at least paragraphs 0033-0035 and 0045);

Chou does not disclose the following limitations, but Katzman et al. however, as shown, does:

- *the user initiating an instant messaging session with the agent via the instant messaging system* (see at least paragraph 0026, 0028, 0039, 0099, where Katzman teaches an electronic concession stand application that provides users with the ability to order items via a network, {paragraph 0026 and 0028}. Katzman further teaches a user requests an order of goods by sending an instant message to a number of suppliers {paragraph 0099 and 0039}.);
- *the user and the agent creating the requisition order during said instant messaging session by interactively communicating with each other during said instant messaging session via the instant messaging system to create the requisition order* (see at least paragraph 0028, "Orders created by a user place a direct demand order on the supplier, utilizing the MCS programmable API (XML, standards based API) which the interfaces directly to the suppliers order processing and fulfillment systems..." and paragraphs 0033 and 0039, "any one or more of the following may be included in a embodiment of the CS Order Wizard: Instant messaging, chat, and other direct communication tools."),

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- *wherein the agent helps the user create orders through a chat window (see at least paragraph 0028, "the CS Order Wizard may provide order request and processing capabilities...Orders created by a user place a direct demand order on the supplier, utilizing the MCS programmable API (XML, standards based API) which the interfaces directly to the suppliers order processing and fulfillment systems... via email, chat.")*

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Chou with the technique of Katzman et al. for the advantage of providing real-time interaction between the provider and the customer, therefore improving the efficiency of processing an order.

Claim 20:

Chou in view of Katzman et al. discloses the limitations of claim 19 as shown above. Moreover, Chou, as shown, discloses the following limitations:

- *for use with a given requisitioning system, comprising the further step of using a database connection program to connect the agent with the requisitioning system and to enable the agent to send messages to and to receive data from said requisitioning system (see at least figure 3, "332" and paragraph 0036).*

Claim 21:

Chou in view of Katzman et al. discloses the limitations of claim 20 as shown above. Chou, as shown, discloses the following limitations:

wherein:

- *said one of the inquiries asks for specific information from the requisitioning system (see at least paragraph 0045-0046);*

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- *the step of the agent preparing the associated response includes the step of, the agent using the database connection program to access the requisitioning system to obtain said specific information (see at least paragraphs 0033-0035 and 0045); and*
- *the step of using the application program interface to send the response to the user includes the steps of the agent sending said specific information to the application program interface (see at least paragraphs 0033-0035 and 0045), and said application program interface sending said specific information, to the user (see at least paragraphs 0033-0035 and 0045).*

Chou does not disclose the following limitations, but Katzman et al. however, as shown, does:

- *via the instant messaging system (see at least paragraph 0099-0100),*

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Chou with the technique of Katzman et al. for the advantage of providing real-time interaction between the provider and the customer, therefore improving the efficiency of processing an order.

Claim 22:

Chou in view of Katzman et al. discloses the limitations of claim 21 as shown above. Moreover, Chou, as shown, discloses the following limitations:

- *wherein said one of the inquiries asks for the status of the requisition order (see at least paragraph 0045)*

Claim 25:

Chou, as shown, discloses the following limitations:

A system for providing information about a requisition order, comprising:

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- *an automated agent for receiving and identifying a set of inquiries, and for each identified inquiry, preparing an associated response* (see at least figure 1, “110” and “118”; Figure 3, “322”; paragraphs 0008, 0025-0026, “web server software”; 0033-0034);
- *a user station for transmitting to the agent one of said set of inquiries* (see at least paragraph 0009, 0011, 0024, and 0045-0046);
- *wherein the agent identifies the transmitted inquiry and prepares the associated response* (see at least paragraph 0025, 0045-0046);

Chou does not disclose the following limitations, but Katzman et al. however, as shown, does:

- *wherein a user at the user station initiates an instant messaging session with the agent via the instant messaging system* (see at least paragraph 0026, 0028, 0039, 0099, where Katzman teaches an electronic concession stand application that provides users with the ability to order items via a network, {paragraph 0026 and 0028}. Katzman further teaches a user requests an order of goods by sending an instant message to a number of suppliers {paragraph 0099 and 0039}.),
- *user and the agent create the requisition order during said instant messaging session by interactively communicating with each other during said instant messaging session via the instant messaging system, thereby eliminating the need to use a Web site to create the requisition order.* (see at least paragraph 0028, “Orders created by a user place a direct demand order on the supplier, utilizing the MCS programmable API (XML, standards based API) which the interfaces directly to the suppliers order processing and fulfillment systems...” and paragraphs 0033 and 0039, “any one or more of the following may be included in a embodiment of the CS Order Wizard: Instant messaging, chat, and other direct communication tools.”).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Chou with the technique of Katzman et al. for the advantage of providing real-time

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interaction between the provider and the customer, therefore improving the efficiency of processing an order.

Claims 26 and 28:

Chou in view of Katzman et al. discloses the limitations of claim 25 as shown above. Moreover, Chou, as shown, discloses the following limitations:

(Claim 26) for use with a given requisition system and wherein a user prepares the requisition order and submits the order to the requisition system (see at least paragraphs 0046-0049), the system further comprising means for providing the agent with access to the requisition system to transmit information to and to receive information from the requisition system (see at least figure 1 and paragraph 0025).

(Claim 28) wherein the user station transmits to the agent a request to initiate preparation of the requisition order (see at least paragraph 0046), and wherein:

- *the agent includes means to prepare a set of prompts to obtain information from the user about the requisition order (see at least paragraph 0046, "The agent provides an item search page having text entry fields for one or more searchable parameters."); and*
- *the agent uses the instant messaging system to send the set of prompts to the user (see at least paragraph 0046).*

Claim 27:

Chou in view of Katzman et al. discloses the limitations of claim 26 as shown above. Moreover, Chou, as shown, discloses the following limitations:

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- *wherein the agent, in response to identifying the transmitted inquiry, accesses the requisition system to obtain an answer to the transmitted inquiry(see at least paragraphs 0025 and 0044-0048).*

Claim 29:

Chou, as shown, discloses the following limitations:

A program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform method steps for providing information about a requisition order, wherein an automated agent is provided for receiving and identifying a set of inquiries, and for each identified inquiry, preparing an associated response, and a user transmits to the agent one of said set of inquiries, said method steps comprising:

- *the agent identifying the transmitted inquiry and preparing the associated response (see at least figure 1, “110” and “118”; Figure 3, “322”; paragraphs 0008, 0025-0026, “web server software”; 0033-0034);*
- *to send said associated response from the agent to the user (see at least paragraph 0025, 0045-0046);*

Chou does not disclose the following limitations, but Katzman et al. however, as shown, does:

- *using an instant messaging system (see at least paragraph 0039)*
- *the user initiating an instant messaging session with the agent via the instant messaging system (see at least paragraph 0026, 0028, 0039, 0099, where Katzman teaches an electronic concession stand application that provides users with the ability to order items via a network, {paragraph 0026 and 0028}. Katzman further teaches a user requests an order of goods by sending an instant message to a number of suppliers {paragraph 0099 and 0039}.),*
- *the user and the agent creating the requisition order during said instant messaging session by interactively communicating with each other during said instant messaging session via the instant messaging system, thereby eliminating the need to use a Web site to create the*

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requisition order (see at least paragraph 0028, "Orders created by a user place a direct demand order on the supplier, utilizing the MCS programmable API (XML, standards based API) which the interfaces directly to the suppliers order processing and fulfillment systems..." and paragraphs 0033 and 0039, "any one or more of the following may be included in a embodiment of the CS Order Wizard: Instant messaging, chat, and other direct communication tools.").

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Chou with the technique of Katzman et al. for the advantage of providing real-time interaction between the provider and the customer, therefore improving the efficiency of processing an order.

Claims 30 and 32:

Chou in view of Katzman et al. discloses the limitations of claim 29 as shown above. Moreover, Chou, as shown, discloses the following limitations:

(Claim 30) *for use with a given requisition system and wherein a user prepares the requisition order and submits the order to the requisition system* (see at least paragraphs 0046-0049), *the system further comprising means for providing the agent with access to the requisition system to transmit information to and to receive information from the requisition system* (see at least figure 1 and paragraph 0025).

(Claim 32) *wherein the user station transmits to the agent a request to initiate preparation of the requisition order* (see at least paragraph 0046), *and wherein:*

- *the agent includes means to prepare a set of prompts to obtain information from the user about the requisition order* (see at least paragraph 0046, "The agent provides an item search page having text entry fields for one or more searchable parameters."); *and*

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- *the agent uses the instant messaging system to send the set of prompts to the user (see at least paragraph 0046).*

Claim 31:

Chou in view of Katzman et al. discloses the limitations of claim 30 as shown above. Moreover, Chou, as shown, discloses the following limitations:

- *wherein the method comprises the further step of the agent, in response to identifying the transmitted inquiry, accessing the requisition system to obtain an answer to the transmitted inquiry (see at least paragraphs 0025 and 0044-0048).*

4. Claims 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chou in view of Katzman et al. and further in view of Monteleone et al. (US 7,187,973 B2).

Claim 23:

Chou in view of Katzman et al. discloses the limitations of claim 1 as shown above. Moreover, Chou, as shown, discloses the following limitations:

- *the agent providing to the user a Website where the user can get more information about the requisition order (see at least paragraph 0024-0026)*

Chou does not explicitly teach *providing an address of the website*. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method of Chou to have included *providing an address of the website* for the advantage of conveniently providing a user the direct link to the website.

Katzman in at least paragraph 0099, teaches using the instant messaging system to send the associated response, but does not disclose the following limitations, where Monteleone et al. however, as shown, does:

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- *i) the agent returning to the user a list of order identifications for the user, and ii) the agent sending to the user a list of approvers currently assigned to the requisition order (see at least figures 9-10, column 5, lines 13-18 and column 10, lines 44-54).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Chou in view of Katzman et al. with the technique of Monteleone et al. for the advantage of tracking the status of a product order.

(10) Response to Argument

Appellant argues that the prior art does not disclose or render obvious the feature of *a user and an agent creating a requisition order during an instant messaging session by interactively communicating with each other during an instant messaging session, thereby eliminating the need to use a Web site to create the requisition order*. Chou in at least paragraph 0008 discloses *a user and an agent creating a requisition order*. Chou explicitly discloses creating a requisition order in paragraph 0008, "A first aspect of the present invention is a system for generating a requisition for selectable items." Continuing on paragraph 0008 Chou discloses *a user and an agent*, "including a client computer system and a server computer system interconnected via a network. The client computer system is configured to allow a **plurality of users** to access the server computer system", *a user*. Further continuing in paragraph 0008, Chou discloses an agent, "The system in accordance with the present invention further includes a server application comprising a user interface running on the server computer system. The server application has a multi-tier architecture including a first tier of client application code for initiating processing by client computer system, a middle tier of object-oriented server application code, and a third tier of shared access and data code. An application programming interface is further provided to allow customization of the user interface."

Chou does not disclose communicating by instant messaging. Katzman et al., discloses *a user and an agent creating a requisition order* in paragraph 0028, "the CS Order Wizard [*agent*] may

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provide order request and processing capabilities...**Orders created** by a **user** [via CS Order Wizard {agent}] place a direct demand order on the supplier, utilizing the MCS programmable API (XML, standards based API) which the interfaces directly to the suppliers order processing and fulfillment systems..." Katzman et al. discloses *during an instant messaging session by interactively communicating with each other during an instant messaging session, thereby eliminating the need to use a Web site to create the requisition order*, in at least paragraphs 0033 and 0039 "any one or more of the following may be included in a embodiment of the CS Order Wizard:" (paragraph 0033) "Instant messaging, chat, and other direct communication tools." (paragraph 0039).

One of ordinary skill in the art at would have found it obvious to update Chou using Instant Messaging as found in Katzman et al., in order to gain the commonly understood benefits of such adaptation, such as an expanded market, simplified operation, and reduced cost. This would be accomplished with no unpredictable results. As stated in **Leapfrog**, "applying modern electronics to older mechanical devices has been commonplace for years." (Leapfrog Enterprises, Inc. v. Fisher-Price, 485 F.3d 1157, 82USPQ2d 1687 (Fed. Cir 2007))

Appellant argues that the prior art does not disclose or render obvious the feature of *wherein both the user and the agent must be currently logged on to the instant messaging system in order for a message to be sent from the user to the agent*. Katzman et al. in paragraph 0028 discloses a CS Order Wizard acting as the agent and a user generating an order, "the CS Order Wizard may provide order request and processing capabilities...Orders created by a user place a direct demand order on the supplier, utilizing the MCS programmable API (XML, standards based API) which the interfaces directly to the suppliers order processing and fulfillment systems..." Clearly the user and Agent are both logged on. Katzman et al. lists features of the CS Order Wizard in paragraphs 0033-0048. In paragraph 0034 Katzman et al explicitly discloses "Member (*user*) log-in. Katzman et al. in paragraph 0039 discloses "Instant messaging, chat, and other direct

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communication tools.” Therefore, Katzman et al. discloses *wherein both the user and the agent must be currently logged on to the instant messaging system in order for a message to be sent from the user to the agent.*

Further in paragraph 0028, Katzman et al. discloses, “the CS Order Wizard may provide order request and processing capabilities...Orders created by a user place a direct demand order on the supplier, utilizing the MCS programmable API (XML, standards based API) which the interfaces directly to the suppliers order processing and fulfillment systems...the CS Order Wizard may allow for direct communications, via email, chat, bulletin boards, and other Internet technologies [disclosed as instant messaging in paragraph 0039] with these suppliers in order to enhance customer/supplier relationships.”

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/David J Clark/

Examiner, Art Unit 3628

Conferees:

John Hayes, SPE 3628

/JOHN W HAYES/

Supervisory Patent Examiner, Art Unit 3628

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Appeals Conference Specialist

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